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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,515	05/18/2005	Mark A. Daeschel	245-67159-02	9363

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EXAMINER	
ASDJODI, MOHAMMAD REZA	
ART UNIT	PAPER NUMBER
1796	
MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/535,515	DAESCHEL ET AL.	
	Examiner	Art Unit	
	MOHAMMAD ASDJODI	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02/15/08*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 4-5, 8-13 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3) in view of Shatila (US 3,975,551) and Kooistra (US 3,725,547).

Regarding claims 1, 2, 4, 5, and 8-13, Dietze teaches an antimicrobial and disinfectant properties of wine comprising; different wines with alcohol by the amounts of 8.3-11.3%, and pH of 2.78-3.49, wherein the wine completely destroys any bacterial and pathogenic organism; [pg.373]. It is well known in the art that all wines contain

acetic acid which is usually between 0.03-0.06%, and also some tartaric acid salts such as potassium tartarate.

Dietze does not teach the presence of sulfur dioxide in composition. However Shatila teaches use of antimicrobial sulfur dioxide in food (potato) preservation by the amount of at least 200 ppm, [C.2, L.39, [C.8, L.9]. Dietze and Shatila are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the sulfur dioxide of Shatila with disinfecting wine of Dietze, with the motivation of increasing and fortifying antimicrobial properties of disinfecting composition such as wine.

Regarding claim 3, Dietze does not, explicitly, teach the amount of salt in his composition. However, Kooistra teaches a synergetic antibacterial combination that contains 0-90% salt, [C.3, L.55], [C.7, L.40]. Dietze and Kooistra are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the salts of Kooistra with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Regarding claims 20-23, Dietze discloses a disinfection method wherein a wine composition is capable of complete elimination of bacterial growth over a short period of time, [pg.372-3].

Regarding claim 24, the Office realizes that all the claimed effects or physical properties, such as disinfecting the animal carcass are not positively stated by the reference. However, the reference teaches all of the claimed reagents and anti bacterial efficacy of the wine based composition. Therefore, the claimed effects and properties would implicitly be achieved by a composition with all the claimed ingredients. If it is the applicant's position that this would not be the case: (1) evidence would need to be presented to support applicant's position; and (2) it would be the Office's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties and effects with only the claimed ingredients.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3), as applied to claim 1, in view of Poulos et al. (US 6,132,786).

Regarding claims 6-7, Dietze does not teach the amount of tartaric acid in his composition. However, Poulos et al. teach a long term mold inhibition in food product comprising tartaric acid by the amount of 0.01 to 3%, [C.6, L.60-65], [C.7, L.5-15]. Dietze and Poulos et al. are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the tartaric acid of Poulos et al. with disinfecting wine of Dietze to enhance the efficacy of mold inhibition.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3) in view of Kooistra (US 3,725,547), and Shatila (US 3,975,551).

Regarding claim 14, Dietze teaches an antimicrobial and disinfectant properties of wine comprising; different wines with alcohol by the amounts of 8.3-11.3% wherein the wine completely destroys any bacterial and pathogenic organism; [pg.373]. It is well known in the art that all wines contain some tartaric acid salts such as potassium tartarate.

Dietze does not, explicitly, teach the amount salt in his disinfectant wine composition. However, Kooistra teaches a synergetic antibacterial combination that contains 0-90% salt, [C.3, L.55], [C.7, L.40]. Dietze and Kooistra are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the salts of Kooistra with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Dietze does not teach the presence of sulfur dioxide in his composition. However Shatila teaches use of antimicrobial sulfur dioxide in food (potato) preservation by the amount of at least 200 ppm, [C.2, L.39, [C.8, L.9]. Dietze and Shatila are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have

been obvious to a person of ordinary skill in the art to combine the sulfur dioxide of Shatila with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3) in view of Kooistra (US 3,725,547), Shatila (US 3,975,551).

Regarding claim 15, Dietze teaches an antimicrobial and disinfectant properties of wine comprising; different wines with alcohol by the amounts of 8.3-11.3% wherein the wine completely destroys any bacterial and pathogenic organism; [pg.373]. It is well known in the art that all wines contain some tartaric acid salts such as potassium tartarate.

Dietze does not, explicitly, teach the amount salt in his disinfectant wine composition. However, Kooistra teaches a synergetic antibacterial combination that contains 0-90% salt, [C.3, L.55], [C.7, L.40]. Kooistra and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the salts of Kooistra with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Dietze does not teach the presence of sulfur dioxide in his composition. However Shatila teaches use of antimicrobial sulfur dioxide in food (potato)

preservation by the amount of at least 200 ppm, [C.2, L.39, [C.8, L.9]. Shatila and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the sulfur dioxide of Shatila with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3) in view of Kooistra (US 3,725,547), Shatila (US 3,975,551).

Regarding claim 16, Dietze teaches an antimicrobial and disinfectant properties of wine comprising; different wines with alcohol by the amounts of 8.3-11.3% wherein the wine completely destroys any bacterial and pathogenic organism; [pg.373]. It is well known in the art that all wines contain some tartaric acid salts such as potassium tartarate.

Dietze does not, explicitly, teach the amount salt in his disinfectant wine composition. However, Kooistra teaches a synergetic antibacterial combination that contains 0-90% salt, [C.3, L.55], [C.7, L.40]. Kooistra and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the salts of Kooistra with disinfecting wine

of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Dietze does not teach the presence of sulfur dioxide in his composition. However Shatila teaches use of antimicrobial sulfur dioxide in food (potato) preservation by the amount of at least 200 ppm, [C.2, L.39, [C.8, L.9]. Shatila and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the sulfur dioxide of Shatila with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3) in view of Kooistra (US 3,725,547), Shatila (US 3,975,551), Poulos et al. (US 6,132,786), and Fleet et al. (US 5,104,665).

Regarding claim 17, Dietze teaches an antimicrobial and disinfectant properties of wine comprising; different wines with alcohol by the amounts of 8.3-11.3%, and pH of 2.78-3-49, wherein the wine completely destroys any bacterial and pathogenic organism; [pg.373]. It is well known in the art that all wines contain acetic acid which is usually between 0.03-0.06%, and also some tartaric acid.

Dietze does not, explicitly, teach the amount salt in his disinfectant wine composition. However, Kooistra teaches a synergetic antibacterial combination that

contains 0-90% salt, [C.3, L.55], [C.7, L.40]. Kooistra and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the salts of Kooistra with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Dietze does not teach the presence of sulfur dioxide in his composition. However Shatila teaches use of antimicrobial sulfur dioxide in food (potato) preservation by the amount of at least 200 ppm, [C.2, L.39, [C.8, L.9]. Shanbrom and Shatila are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the sulfur dioxide of Shatila with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Dietze does not teach the amount of tartaric acid in his composition. However, Poulos et al. teach a long term mold inhibition in food product comprising tartaric acid by the amount of 0.01 to 3%, [C.6, L.60-65], [C.7, L.5-15]. Poulos et al. and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the tartaric acid of Poulos et al. with the disinfecting wine of Dietze to enhance the efficacy of mold inhibition.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3) in view of Kooistra (US 3,725,547), Shatila (US 3,975,551).

Regarding claim 18, Dietze teaches an antimicrobial and disinfectant properties of wine comprising; different wines with alcohol by the amounts of 8.3-11.3% wherein the wine completely destroys any bacterial and pathogenic organism; [pg.373]. It is well known in the art that all wines contain some tartaric acid salts such as potassium tartarate.

Dietze does not, explicitly, teach the amount salt in his disinfectant wine composition. However, Kooistra teaches a synergetic antibacterial combination that contains 0-90% salt, [C.3, L.55], [C.7, L.40]. Kooistra and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the salts of Kooistra with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Dietze does not teach the presence of sulfur dioxide in his composition. However Shatila teaches use of antimicrobial sulfur dioxide in food (potato) preservation by the amount of at least 200 ppm, [C.2, L.39, [C.8, L.9]. Shatila and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the sulfur dioxide of

Shatila with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietze, W. (British Medical Journal, Feb. 22, 1936, pg. 372-3) in view of Kooistra (US 3,725,547), Shatila (US 3,975,551).

Regarding claim 19, Dietze teaches an antimicrobial and disinfectant properties of wine comprising; different wines with alcohol by the amounts of 8.3-11.3% wherein the wine completely destroys any bacterial and pathogenic organism; [pg.373]. It is well known in the art that all wines contain some tartaric acid salts such as potassium tartarate.

Dietze does not, explicitly, teach the amount salt in his disinfectant wine composition. However, Kooistra teaches a synergetic antibacterial combination that contains 0-90% salt, [C.3, L.55], [C.7, L.40]. Kooistra and Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the salts of Kooistra with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Dietze does not teach the presence of sulfur dioxide in his composition. However Shatila teaches use of antimicrobial sulfur dioxide in food (potato) preservation by the amount of at least 200 ppm, [C.2, L.39, [C.8, L.9]. Shatila and

Dietze are analogous because they are from the same field of endeavor in relation to disinfection and microbial contamination control. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the sulfur dioxide of Shatila with disinfecting wine of Dietze, and the motivation is to increase and fortify antimicrobial properties of disinfecting composition.

Response to Arguments

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DR. M. Reza Asdjodi whose telephone number is (571)270-3295. The examiner can normally be reached on Monday-Friday 8:00-5:00 est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MARK EASHOO/
Supervisory Patent Examiner, Art Unit 1796
18-May-08

/M. R. A./
Examiner, Art Unit 1796
05/17/08